



August 17, 1999

Ms. Regina Grimes
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 13084
Austin, Texas 78711

OR99-2330

Dear Ms. Grimes:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126572.

The Texas Department of Criminal Justice ("TDCJ") received a request for specific information pertaining to a former inmate who is deceased. The requestor is a sergeant with the Criminal Investigation Division of the Texas City Police Department. TDCJ has released some of the requested information, but you assert that portions of the information at issue are confidential under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code or federal law.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses information protected by other statutes. Section 508.313 of the Government Code provides:

(a) All information obtained and maintained, including a victim protest letter or other correspondence, a victim impact statement, a list of inmates eligible for release on parole, and an arrest record of an inmate, is confidential and privileged if the information relates to:

(1) an inmate of the institutional division subject to release on parole, release to mandatory supervision, or executive clemency;

(2) a releasee; or

(3) a person directly identified in any proposed plan of release for an inmate.

You have identified the information at issue as records concerning substance abuse treatment plans for an inmate subject to release on parole. The provisions of section 508.313 are applicable even when the former inmate is deceased. *See* Open Records Letter No. 99-1541 (1999). We conclude that the information you have marked is covered by section 508.313(a). Nevertheless, the department may release the information to the requestor in this case. Section 508.313 provides in relevant part as follows:

(c) The department may provide information that is confidential and privileged under Subsection (a) to:

...

(4) an eligible entity requesting information for a law enforcement, prosecutorial, correctional, clemency, or treatment purpose.

(d) In this section, "eligible entity" means:

(1) a government agency, including the office of a prosecuting attorney.

In addition, information may be transferred to another governmental body without destroying its confidential character so long as the entity or individual is authorized to possess the information. *See, e.g.,* Attorney General Opinion JM-1235 (1990); Open Records Decision Nos. 655 (197), 650 (1996), 516 (1989). Section 508.313(c)(4) appears to authorize TDCJ to provide this information to the requestor in this instance.

Section 290dd-2a of title 42 of the United State Code reads as follows:

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

You have not established that the records at issue are "records of the identity, diagnosis, prognosis, or treatment of a patient" or that TDCJ maintains the records at issue "in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States." Consequently, we do not believe that section 290dd-2(a) prohibits TDCJ from releasing the records to the requestor in this instance.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts

presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Kay Hastings".

Kay Hastings
Assistant Attorney General
Open Records Division

KHH/RHS/ch

Ref: ID# 126572

Encl. Submitted documents; copy of Open Records Letter No. 99-1541 (1999)

cc: Sergeant Brian Geotchius
Texas City Police Department
1004 9th Avenue N
Texas City, Texas 77590
(w/o submitted documents; w/copy of Open Records Letter No. 99-1541 (1999))